being a passenger voluntarily, was so far identified with the carriage that want of care on the part of the driver would bar plaintiff's action. And this doctrine has been followed in some of the states. See *Lockhart v. Lichtenthaler,* 46 Pa. St. 151. But has been overruled in England, *The Bernina, L. R.,* 12 Prob. Div. 58; and repudiated by the United States Supreme Court, *Little v. Hackett,* 116 U. S. 366; the weight of authority being strongly against it. *Eaton v. Boston, etc., R. Co.,* 11 Allen (Mass.) 500. And as to private conveyances, *Doctoroff v. Metropolitan St. Ry. Co., supra,* is in harmony with the general trend of the more recent decisions. *Cooley on Torts* (3d Ed.), 1473; *Hoag v. N. Y. Cent., etc., R. Co.,* 111 N. Y. 199. But if the driver is under plaintiff's control, his negligence is imputable. *Read v. City and Suburban Ry. Co.,* 115 Ga. 366. Or if two are engaged in a joint enterprise and each has an equal right to direct movement of the vehicle. *Boyden v. Fitchburg R. Co.,* 72 Vt. 89. However, in *Lake Shore, etc., R. Co. v. Miller,* 25 Mich. 274, it was held that the contributory negligence of a master is imputable to servant; and of a husband to wife in *G., C. & S. F. Ry. Co. v. Greenlee,* 62 Tex. 344. And the doctrine of *Thorogood v. Bryan, supra,* is approved as to private conveyances in *Prideaux v. City of Mineral Point,* 43 Wis. 513.

NEGLIGENCE—IMPUTED NEGLIGENCE—PARENT AND CHILD.—ATCHISON, T. & S. F. RY. CO. v. CALHOUN, 89 PAC. 207 (OKLA.)—*Held,* that in an action by an infant of tender years, in its own right, for personal injuries arising from negligence of a railway company, the fault or negligence of its mother or a third party, if any, contributing to such injury, cannot be imputed to the child.

In this country much conflict exists in the law on this subject. In England, the negligence of the custodian is imputed to the infant and recovery is denied. *Waite v. Northeast R. Co.,* El. Bl. & El., 719; *Singleton v. Eastern Counties R. Co.,* 7 C. B. (N. S.) 287. In the United States the leading case in harmony with the English rule is *Hartfielder v. Roper,* 21 Wend. (N. Y.) 615, where it was held that a child of two years who was run over while playing in the public street, was not entitled to recover for the negligent injury, because of the negligence of the parents in thus exposing him to injury. This case has been followed in several states: *Casey v. Smith,* 152 Mass. 294; *Cumberland v. Lottig,* 95 Md. 42; *Leslie v. Lewiston,* 62 Me. 468. But in at least twenty-three states its doctrine has been repudiated: *inter alia,* see *Robinson v. Cone,* 22 Vt. 213; *Erie Pass. Ry. Co. v. Schuster,* 113 Pa. St. 412; *Chicago City Ry. Co. v. Wilcox,* 138 Ill. 370. In a suit by the parent in his own behalf for an injury to the child, the plaintiff's contributory negligence is a defense. *Williams v. Texas, etc., Co.,* 60 Tex. 205; *Tucker v. Draper,* 62 Neb. 66. But the negligence of one parent will not defeat the action of another. *Atlanta, etc., Ry. Co. v. Gravitt,* 93 Ga. 369; *contra, Toner v. South Covington, etc., St. Ry. Co.,* 109 Ky. 41.

PARTITION—SCOPE OF INQUIRY.—ROLB V. EVERETT, 65 ATL. (N. J.) 732.—*Held,* that in a suit for partition the court would not determine the validity of a tax title asserted by defendant, but would hold the case to await the decision of a court of law as to the validity of such title.

Bills for partition of land must allege a seisin in possession in both complainant and defendant. *Culver v. Culver,* 2 Root (Conn.) 278. *Bolin v. Jacquelin,* 22 N. Y. Supp. 193. At common law neither title nor right to